

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 250

9:00 a.m.

December 19th, 2018

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Licensing and Education Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Chad Tengler, Real Estate Analyst
Elizabeth Harris, Assistant Attorney General
Stephen Gillies, Assistant Attorney General
Mary Martinez, Board Secretary
Van Kagie, Investigator
Mark Schaerrer, Investigator
Sarah Nicholson, Investigator
Chris Martindale, Investigator
Connie Mickles, Division Staff

COMMISSION MEMBERS PRESENT:

Calvin R. Musselman, Chair
Lerron Little, Vice Chair
Lori Chapman, Commissioner
Russell Booth, Commissioner
Marie McClelland, Commissioner

PUBLIC MEMBERS PRESENT:

Brian Swan	Nancy Frandsen	Heather Swanger
Kreg Wagner	Shane Norris	Kevin Swenson
Mike Ballif	Paula Alonso-Moreira	
Ann Lobos		

The December 19th, 2018 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Musselman conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes from the November 14th, 2018 meeting of the Commission as written. Vote: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

PUBLIC COMMENT

Nancy Frandsen, Title and Escrow Commission, every month the commission discusses what is on record from Director Stewart. The commission and Commissioner Kiser asked Ms. Frandsen to inquire if the announcements could be available as a video placed on the division website in the future. Ms. Frandsen advised this is something the two commissions need to do to protect the vulnerable public.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart welcomed Mary Martinez. She started Monday, December 17, 2018 as Board Secretary replacing Amber Nielsen.

Director Stewart thanked Chair Musselman for his years on the commission. December 19th will be his last meeting with the Real Estate Commission. Director Stewart stated he has appreciated his insight, his professionalism, his dedication and will be missed as a member of the commission. Director Stewart awarded him with a service plaque.

Director Stewart advised because Chair Musselman is leaving the commission is losing their chair. It would be appropriate to hold nominations for a replacement. The name submitted previously is awaiting approval. Director Stewart asked Chair Musselman if he would allow elections immediately. The commission would like to know who would be in charge in January. Commissioner McClelland made a nomination for Commissioner Booth as a replacement.

A motion was made and seconded to approve Commissioner Booth as chair. In favor: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The nomination was approved.

Director Stewart stated all commissioners should have received a draft of our proposed bill. There was a previous discussion on the items. Director Stewart wanted the commissioners to see a copy of the actual language. A copy was sent to the office of Legislative Research. An official draft has not been received. There is plenty of time for review, make changes substantively or if the language is not what the commission would like. Commissioners are to let Director Stewart know if there are any questions, concerns or comments.

Director Stewart reported last month that the Business of Labor Interim Committee was discussing potentially licensing home inspectors. This bill did not pass through the Legislative committee. The committee has abandoned that bill.

Director Stewart's understanding is there is a Legislative committee that is supposed to oversee the licensing. The bill did not go through that committee. It is preferred the bill is taken through the appropriate steps. It will be determined in the future if the bill is to reopen.

Director Stewart gave an update on the filming of the public service announcements. Filming took place on December 19th it has taken longer than he had hoped. He will talk to the Department about having the Department of Insurance placing it on their web site. Director Stewart does not see why they would not allow the information on the site. It makes sense to help the public and get the word out.

Director Stewart discussed the calendar for 2019. He asked for alternate dates for two of the scheduled meetings. Due to conflicts on February 20th, 2019 and May 15th, 2019 meeting dates have been changed to February 13th, 2019 and Thursday May 9th, 2019.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported in the month of November the Division received 38 complaints; opened 2 cases; closed 14 cases; leaving 437 open cases. There are 22 cases assigned to the AG's office.

Mr. Gillies of the AG's Office presented the following for consideration:

Stipulations for Review
Claudia J. Klawe

OPEN TO THE PUBLIC

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported 177 additional licensees in November also resulted in a net growth of 1397 from eleven months ago.

Mr. Fagergren continued the conversation from last month regarding the mandatory 3-hour CE course. The commission approved the concept and a committee of nine members is to meet in early January. Mr. Fagergren hopes the commission can determine the members quickly in order to keep on track. The course will need to be detailed and approved by May 2019. This gives licensees until the end of the

year to take the course if they are renewing in January 2020.

Mr. Fagergren has discussed with our contractor Utah Interactive that there needs to be a firm commitment. Once the commission confirms the details there is a plan to meet and ask if it can be done. One question asked; if the course is not completed, would an active program be in place to prevent renewing in 2020.

Mr. Fagergren would like to have several members with different niches. Anxious to have as many people represented as possible. The CE Course is at the point where we need to move on it.

Mr. Fagergren discussed potential members:

- Education Director
- UAR Executive Committee
- Brokerage legal representatives
- One or more members Real Estate Commission
- Representatives of the Education Community
- Representatives of the Commercial Community
- Residential and Property Management Brokers
- National Association of Property Managers
- Others as determined by Commission

Commissioner Chapman believes the input is great. She voiced a concern with so many people trying to do the first course in a limited amount of time and there is a very broad spectrum of interest. She is concerned it is too broad of a place to start in order to come up with a consensus.

Director Stewart stated his perception from November. Commissioners agreed on the concept of a Mandatory CE Course to move forward. However, there were many questions about timing and the group members going to be used.

Mr. Fagergren agreed to start with five or six people as a core and a few members from other groups for feedback. This will be adjusted, as the details are fine-tuned. He would like the Commission Representative to be the driving force behind to organize the other five members. As well as when and where to meet for discussion.

Commissioner McClelland volunteered to be a member. Commissioner Little suggested a list of recommended association/commission groups for input.

Mr. Fagergren requested the same committee to determine the individuals and groups needed to provide feedback. Who are the actual individuals that would want to serve to come up with the details.

Mr. Fagergren will send an email for specific recommendation, then the contacts will

divided. The commission does not want to miss any capable person. There may be an initial call to determine when to meet.

BOARD AND INDUSTRY RULE UPDATE – Justin Barney

Mr. Barney discussed the proposed rule amendment, which would implement the 3-hour CE Course as a requirement. The rule did not propose timing. A time-frame can be added. As it is, the course will be mandatory and implemented when the course is ready. It would be nice to have a definite date. Is the language good enough to move forward? Does the start date need to be in the language.

Mr. Fagergren discusses the name of the course. The working name will remain Division Mandatory Course.

Mr. Barney continues, the language will state the 3-hour CE Course mandatory and include a January 2020 date. Amended if needed. The newsletter and caravan will have this information.

Motion with the wording presented by Justin Barney with the addition of January 2020 start date. And will move to file and open up for public comment, passes unanimously.

Mr. Barney discusses an update on the current rule amendment. The commission approved the proposed rule. Filing date on November 21st, 2018. The rule will be open for public comment until January 16th, 2019. The first possible effective date is January 23rd, 2019. Proposal has minor changes – Ownership and definitions, cleaned up language. The changes are moving forward and Mr. Barney will advise of any public comment.

Mr. Barney received an email from Tony McDonough. Mr. McDonough had a violation and fine of \$500.00 due on Monday December 24, 2018. He is having some difficulty and would like an extension or an adjustment of due date. It was proposed to move the due date to February 1, 2019.

Concluded business on Agenda. A motion was made and seconded to adjourn the meeting. Vote: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Booth, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved. The meeting adjourned at 9:45 a.m.

CLOSED TO PUBLIC

An Executive Session was held from 9:45 a.m. to 9:50 a.m.

Break from 9:50 a.m. to 10:00 pm

OPEN TO PUBLIC

The meeting continued at 10:03 a.m. for the Informal Hearing in the Matter of Christopher Eggleton to act as a Real Estate Licensed Principal Broker with Chair Mussellman conducting.

10:07 a.m. Christopher Eggleton, Applicant
Lacey Vawdrey, Witness for Division Real Estate
Chad Tengler, Attorney for Division

The hearing for Mr. Eggleton concluded at 11:12 a.m.

Informal Hearing in the Matter of Alexander J. Lobos to act as Real Estate Agent with Chair Mussellman conducting.

11:12am Alexander J. Lobos, Applicant
Paula Alonso-Moreira, Witness for Mr. Lobos
Ann Lobos, Witness for Mr. Lobos
Stephen D. Gillies, Assistant Attorney General

The hearing for Mr. Lobos concluded at 12:17 p.m.

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Mussellman, yes; Vice Chair Little, yes; Commissioner Booth, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 12:18 p.m. to 1:16 p.m.

OPEN TO PUBLIC

Results of Executive Session

Claudia J. Klawe – Approved with Division Concurrence
Tony McDonough – Will be notified by mail and email.

Mr. Eggleton and Mr. Lobos will be notified by mail of their hearings.

{Do not know who asked this question} A question asked about CE Mandatory testing for those who took the course on line or off line. It was determined it was the style of testing that was in question. A test of subject matter or a test that participant was in the seat. Determined it is a time in seat test and agreed that was

sufficient.

A motion was made and seconded to adjourn the meeting. Vote: Chair Musselman, yes; Vice Chair Little, yes; Commissioner Booth, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved. The meeting adjourned at 1:19 p.m.